

States' Lawsuit Against the 'Transgender Mandate' for Schools Takes New Twist

Several states' lawsuit against the federal government over the Obama administration's "transgender mandate" to schools took a sudden twist over the weekend when Department of Justice officials informed a court it no longer intends to appeal an injunction that prevents the mandate's implementation.

A hearing was supposed to be held Tuesday at the Fifth Circuit Court of Appeals in New Orleans to discuss the injunction, but now the case will proceed to trial while the Trump administration decides how it wishes to proceed in the case. According to several reports, the administration still has not determined how to approach the issue.

Most legal experts agree the Obama administration's interpretation that the word "sex" refers to both biological sex and "gender identity" will fail under judicial review. There is little doubt that Congress used the term only to apply to biological sex in both 1964 and 1972 when it wrote the laws regarding discrimination in the workplace and education settings.

And with President Donald Trump's appointment to the Supreme Court of a "literalist" in 11th Circuit Court of Appeals Judge Neil Gorsuch, it seems unlikely the high court would ever side in favor of the justice and education departments' "Dear Colleague" letter that prompted the lawsuits. But, until that letter—which carries the force of law without being an actual law—is rescinded, the lawsuit must continue.

The states have sought a summary judgment in the case, which could bring the entire matter to an abrupt end, if the Trump

administration were to refuse to appeal the lower court decision in Texas. {eoa}